THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6008 of 2007

Dated:26.03.2007

Between:

Kosuri Kalinga Maharaju and another.

… Petitioners

AND

The District Collector and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6008 of 2007

ORDER:

The two petitioners are aggrieved by the communication, dated 24.02.2007, issued by the second respondent whereunder treating them as encroachers, the petitioners were asked to vacate the land in R.S.No.17/3A situated at Kosurivaripalem Village, Hamlet of Chiruvolulanka, Mopidevi Mandal in Krishna District, by 02.03.2007. The petitioners allege that they received the impugned communication on 19.03.2007, and immediately approached this Court. They claim that they are the absolute owners of the property in R.S.No.17/3A by reason of a declaratory decree dated 30.04.1977 passed by the Court of the Senior Civil Judge, Machilipatnam, in O.S.No.79 of 1971. They also allege that they got possession from the Court Ameen as per the orders of the civil Court in E.P.No.59 of 1979. Therefore, they contend that the impugned communication issued to them treating the subject land as a Government land, is illegal and arbitrary.

Though the learned Assistant Government Pleader for Revenue (General-A) opposed the Writ Petition contending that the impugned communication is a notice under Section 7 of the Land Encroachment Act, 1905 (for short 'the Act'), after perusing Appendix-XXXII and paragraph 3 of Board Standing Order 26 of the Andhra Pradesh Board of Revenue Standing Orders, this Court is not able to accept the submission. If the petitioners are to be treated as encroachers and are to be evicted, the only recourse to the Mandal Revenue Officer is to take necessary action in accordance with the Act. The impugned communication cannot be said to be a notice under Section 7 of the Act. Unless and until, the petitioners are evicted by due process of law, they cannot be deprived of their right to enjoy the property.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

26.03.2007

Note: Issue C.C in two days.

B/o.

vs